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FILED
OCT 30 2007
OFFICE OF THE CLERK
SUPREME COURT, U.S.

(3)

No. 07-234

IN THE

SUPREME COURT OF THE UNITED STATES

NED B. MAJORS,

Petitioner,

v.

SOUTH CAROLINA SECURITIES COMMISSION,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO
THE SUPREME COURT OF SOUTH CAROLINA

PETITION FOR REHEARING

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PETITION FOR REHEARING

Now comes, pursuant to Rule 44.2, Ned B. Majors who respectfully Petitions this Honorable Court for a Rehearing on his Petition For Writ Of Certiorari, denied by Order of October 1, 2007, based upon the following question:

QUESTION PRESENTED

1. Don't the previous Opinions in (A.) *Silver Hills Country Club v. Sobieski*, 55 C2d 811, which after referencing *People v. Syde*, 37 Cal. 2d 765, 760, 235 P.2d 601; *Wasnowic v. Chicago Bd. Of Trade*, 352 F. Supp. 1066 (M.D. Pa. 1972) and *Dame v. Lee*, 180 Ga. 315, 178 S.E. 752 (1935) on Page 188 opined, "It has been held that a contract providing only for the sale of services is not within the scope and purpose of the [securities] act."; (B.) *Milnarik v. M-S Commodities, Inc.*, 320 F. Supp. 1149, 1151 (N.D. Ill. 1970) which opined, "We do not believe an investor who grants discretionary authority to his agent thereby joins the agent's other customers in the kind of common enterprise that would convert the agency relationship into a statutory security."; (C.) *SEC Securities Act Release* No. 5347 (Jan. 10, 1973) which opined, "An investment operated through an agent, when the principal's control is not diluted in some manner, is not an investment in a security."; (D.) *Sinva, Inc. v. Merrill Lynch*, 523 F. Supp. 359, 365 (S.D.N.Y. 1966) which opined, "When the investor [employer/purchaser] remains in total control, the purchaser acquires the "power to exercise absolute dominion and control over the purchase and there is no common enterprise"; (E.) *Moulin*

v. Der Zakarian, 191 Cal. App. 2d 184, 12 Cal. Rptr. 572 (4th Dist. 1961) which opined, "While the investor client [employer of agent] may not have control over the physical activities of the agent, the very act of turning over discretion can be viewed as an exercise of the control vested in the principal [investor/employer] client."; (F.) *Darwin v. Jess Hickey Oil Corp.*, 153 F. Supp. 667, 672 (N.D. Tex. 1957) which opened, "If an investor retains an agent, he still controls or looks to himself to make the profit himself."; (G.) *Restatement: (Second) of Agency*, section 1(1), at 7 (1957) which stated, "[when one hires an agent] There is no diminution [of control] since the agent is subject to the principal's control!"; and, (H.) *SEC v. Energy Group Of America, Inc.*, 459 F. Supp. 1234 (1978) which opined, "paying a fee [to its agent] can not be considered an investment as the payer [employer/client] knows a fee is not an investment as they do not expect to get it back." versus Respondent's, The South Carolina Securities Commission, single Opinion (which is not supported, nor has it ever been supported, by any other known 'securities' case in any other state) requires this Honorable Court to reverse its October 15, 2007 denial of Petitioner's Petition For A Writ of Certiorari and allow Petitioner his day before this Honorable Court?

THE PARTIES

The above caption names all of the parties.

STATEMENT IN SUPPORT OF REHEARING

The selling of labor and personal services by an Agent, especially an Independently Contracted Agent like Petitioner who only sells his labor and consulting services, has never, ever, been considered to be that of selling any type of 'security' whether registered or unregistered.

Yet, unless this Honorable Court reverses its October 15, 2007 denial of Petitioner's Petition For A Writ Of Certiorari and allows Petitioner to have his day in court, Respondent South Carolina Securities Commission plus all forty nine (49) other states' Securities Commissions or Divisions plus The Federal Securities and Exchange Commission (SEC) would have the jurisdiction to require any and every person and company who offers and/or sells their physical labor and/or consulting services to register as a "Security" with their respective government's 'security' departments or face civil and criminal charges; and,

Such blanket 'securities' jurisdiction by all of the fifty (50) states could even extend to individuals who hold a 'Limited Power of Attorney' authority as most of those individuals receive compensation for their physical services; and

The refusal of this Honorable Court to allow Petitioner to have his day before this Honorable Court could cause the reversal of the many decades old cases listed in Petitioner's presented question.

3.

CONCLUSION

There being substantial grounds for appeal not previously presented, the Petition for Rehearing should be granted under Rule 44.2.

Respectfully submitted,

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CERTIFICATE OF GOOD FAITH FILING BY PETITIONER *PRO SE*

Pursuant to Rule 44 of this Court's Rules, Petitioner *Pro Se* certifies that the issue presented in this Petition For Rehearing because this Honorable Court denied his Petition for Writ of Certiorari concerns a substantial legal ground not previously presented to this Court. Petitioner *Pro Se* further certifies that this Petition For Rehearing is presented in good faith and not for the purpose of delay.

_____

Ned B. Majors
Petitioner Pro Se.

November 20, 2007